

REMARKS

Claims 1-44 were pending in the present application. In the foregoing amendments, claims 1, 3, 15-17, 19-20, 22, 24-25, 28, 30, 32-33, 35-37, 39, 40, 42, and 44 have been amended, and claims 2, 18, 26, 31, 38, and 43 have been canceled without prejudice and disclaimer to subject matter disclosed therein. Support for these amendments can be found in the specification and claims of the application as filed. No new matter has been added by these amendments.

In the Office Action, the Examiner rejected claims 1, 3, 6-9, 15, 17, 19 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Proctor, Jr. et al. (U.S. Patent No. 6,563,809), hereinafter referred to as Proctor, in view of Seta (U.S. Patent No. 6,483,825), hereinafter referred to as Seta.

The Examiner rejected claims 2, 4, 10-14 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Proctor, in view of Seta as applied to claims 1, 3, 6-9 and 15, in further view of Blanchard et al. (U.S. Patent No. 5,862,132), referred hereinafter as Blanchard.

The Examiner rejected claims 5 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Proctor, in view of Seta and further in view of Kanterakis et al. (U.S. Patent No. 6,574,267), hereinafter referred as Kanterakis.

The Examiner rejected claim 16 under 35 U.S.C. § 103(a) as being unpatentable over Proctor, in view of Blanchard.

The Examiner rejected claims 22 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Proctor, in view of Blanchard and further in view of Eggleston et al. (U.S. Patent No. 5,764,899), hereinafter referred as Eggleston.

The Examiner rejected claims 24-27 and 29-32 under 35 U.S.C. § 103(a) as being unpatentable over Proctor, in view of Seta and further in view of Tanaka (U.S. Patent No. 5,845,212), hereinafter referred as Tanaka.

The Examiner rejected claim 28 under 35 U.S.C. § 103(a) as being unpatentable over Proctor, in view of Tanaka as applied to claims 24-27 and 29-32, further in view of Kanterakis.

The Examiner rejected claims 33-35 under 35 U.S.C. § 103(a) as being unpatentable over Proctor, in view of Eggleston.

The Examiner rejected claims 36-37, 39 and 41-44 under 35 U.S.C. § 103(a) as being unpatentable over Proctor, in view of Seta and further in view of Eggleston.

The Examiner rejected claim 38 under 35 U.S.C. § 103(a) as being unpatentable over Proctor and Seta in view of Eggleston as applied to claims 36, 37, 39 and 41-44, further in view of Tanaka.

The Examiner also rejected claim 40 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Proctor and Seta, in view of Eggleston as applied to claims 36, 37, 39 and 41-44, further in view of Kanterakis.

The Examiner further objected claim 39 because of the misspelling of “priori”.

Applicants respectfully request reconsideration of the application in light of the amendments above and the remarks below.

#### **Independent Claims 1, 16, 17 and Their Dependent Claims**

Independent claims 1, 16, and 17 were each rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over a combination of Proctor, Seta, and Blanchard.

Independent claim 1, as amended, explicitly incorporates features similar to those recited in original claim 2. In rejecting claim 2, the Examiner additionally cited a section in Blanchard, alleging that Blanchard in combination with Proctor and Seta (the latter two were used to reject claim 1) renders claim 2 obvious. Blanchard discloses a system including N transmitters for transmitting bursts of data. Each of the N transmitters receives a signal from a timing reference for supplying each of the transmitters with a precise time reference having time knowledge such as time of day, master frame counter, or super frame counter, and a precise timing signal. Such timing reference allows each of the transmitters to transmit bursts of data at precise times and for precise time intervals (see Blanchard, col. 2, lines 41-67).

However, neither of Blanchard, Proctor and Seta, alone or in combination, teaches or suggests “transmitting the plurality of pilot bursts from each transmission source at predetermined times, wherein pilot bursts from the plurality of transmission sources are aligned at each of the predetermined times,” as recited in claim 1 (emphasis added). Furthermore, neither of the cited references, alone or in combination, provides any teaching or suggestion that

would motivate one skilled in the art to modify the references to achieve the invention as Applicants claim.

For at least these reasons, Applicants submit that claim 1 is patentable over the cited references. Applicants respectfully request the rejection of claim 1 be withdrawn.

Independent claims 16 and 17, as amended, each recite features analogous to those found in claim 1 and are therefore allowable, for at least the reasons stated above. Applicants respectfully request the rejections of these claims be withdrawn.

Claims 3-15 and 19-21 each depend from one of independent claims 1 and 17, and are also allowable. Applicants respectfully request the rejections of these claims be withdrawn.

Applicants would like to inform the Examiner that the European counterpart of the present application has been granted with a claim scope comparable to that of claims 1-21.

#### **Claims 22-23**

Claims 22 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Proctor, in view of Blanchard and further in view of Eggleston et al. (U.S. Patent No. 5,764,899).

Independent claim 22, as amended, recites: “...the pilot reference from each access point is transmitted in pilot bursts at predetermined times, the pilot bursts from the plurality of access points are aligned at each of the predetermined times, and the pilot bursts from the plurality of access points are received at approximately a same instance in time” (emphasis added). Applicants submit that claim 22 is not disclosed or suggested by the cited references, alone or in combination, and is therefore allowable. Applicants respectfully request the rejection of claim 22 be withdrawn.

Claim 23 depends from independent claim 22 and is also allowable. Applicants respectfully request the rejection of claim 23 be withdrawn.

#### **Independent Claims 24, 33 and 36 and Their Dependent Claims**

Independent claims 24, 33, and 36 were each rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over a combination of Proctor, Seta, Tanaka, and Eggleston.

Independent claim 24, as amended, recites: "...means for determining a link having a best signal quality based in part on the pilot bursts received; and means for determining a highest data rate of transmission supported by the link" (emphasis added).

Tanaka discloses a mobile communication system capable of effectively carrying out a hand-over control. In Tanaka, a mobile station receives the down link signal as a base received signal to measure a received signal strength indicator (received field intensity) and a received signal quality in accordance with the base received signal. On the basis of such measured information, the mobile station determines whether or not it is necessary to carry out a hand-over control (see Tanaka, col. 2, lines 22-27, col. 3, lines 38-49).

Tanaka, alone or in combination with other cited references, does not teach or suggest determining a highest data rate of transmission supported by the link having the best signal quality, as recited in claim 24. (Applicants respectfully point out that the signal quality indicator as disclosed in Tanaka does not equate or imply a data rate of transmission. See Office Action, page 27, line 3.)

For at least the reasons stated above, Applicants submit that independent claim 24 is patentable over the cited references. Applicants respectfully request the rejection of claim 24 be withdrawn.

Independent claims 33 and 36, as amended, each recite features analogous to those found in claim 24 and are therefore allowable, for at least the reasons stated above. Applicants respectfully request the rejections of these claims be withdrawn.

Claim 25, 27-30, 32, 34-35, 37, 39-42, and 44 each depend from one of independent claims 24, 33, and 36, and are also allowable. Applicants respectfully request the rejections of these claims be withdrawn.

### **Claim Objection**

The Examiner objected to claim 39 because of the misspelling of "p~~ri~~ori."

Applicants respectfully submit that the term "a p~~ri~~ori" as recited in claim 39 constitutes a correct spelling.

In the foregoing amendments, the term "a p~~ri~~ori" has been italicized for emphasis. Applicants respectfully request the objection of claim 39 be withdrawn.

**REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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